

if the statement is unusually long. These documents will normally be made available without charge except that, in unusual circumstances, reproduction costs may be recovered in accordance with 40 CFR 1506.6(f) from recipients other than those required by CEQ to receive the complete EIS.

§ 230.19 Comments.

District commanders shall request comments as set forth in 40 CFR 1503 and 1506.6. A lack of response may be presumed to indicate that the party has no comment to make.

(a) *Time extensions.* District commanders will consider and act on requests for time extensions to review and comment on an EIS based on timeliness of distribution of the document, prior agency involvement in the proposed action, and the action's scope and complexity.

(b) *Public meetings and hearings.* See 40 CFR 1506.6(c). Refer to paragraph 12, 33 CFR part 325, appendix B for regulatory actions.

(c) *Comments received on the draft EIS.* See 40 CFR 1503.4. District commanders will pay particular attention to the display in the final EIS of comments received on the draft EIS. In the case of abbreviated final EISs, follow 40 CFR 1503.4(c). For all other final EISs, comments and agency responses thereto will be placed in an appendix in a format most efficient for users of the final EIS to understand the nature of public input and the district commander's consideration thereof. District commanders will avoid lengthy or repetitive verbatim reporting of comments and will keep responses clear and concise.

(d) *Comments received on the final EIS.* Responses to comments received on the final EIS are required only when substantive issues are raised which have not been addressed in the EIS. In the case of feasibility reports where the final report and EIS, Board of Engineers for Rivers and Harbors (CEBRH) or Mississippi River Commission (CEMRC) report, and the proposed Chief's report are circulated for review, incoming comment letters will normally be answered, if appropriate, by CECW-P. After the review period is over, CECW-P will provide copies of all

incoming comments received in HQUSACE to the district commander for use in preparing the draft record of decision. For all other Corps actions except regulatory actions (See 33 CFR part 325, appendix B), two copies of all incoming comment letters (even if the letters do not require an agency response) together with the district commander's responses (if appropriate) and the draft record of decision will be submitted through channels to the appropriate decision authority. In the case of a letter recommending a referral under 40 FR part 1504, reporting officers will notify CECW-RE and request further guidance. The record of decision will not be signed nor any action taken on the proposal until the referral case is resolved.

(e) *Commenting on other agencies' EISs.* See 40 CFR 1503.2 and 1503.3. District commanders will provide comments directly to the requesting agency. CECW-RE will provide comments about legislation, national program proposals, regulations or other major policy issues to the requesting agency. See appendix III of CEQ regulations. When the Corps is a cooperating agency, the Corps will provide comments on another Federal agency's draft EIS even if the response is no comment. Comments should be specific and restricted to areas of Corps jurisdiction by law and special expertise as defined in 40 CFR 1508.15 and 1508.26, generally including flood control, navigation, hydropower, and regulatory responsibilities. See appendix II of CEQ regulations.

§ 230.20 Integration with State and local procedures.

See 40 CFR 1506.2.

§ 230.21 Adoption.

See 40 CFR 1506.3. A district commander will normally adopt another Federal agency's EIS and consider it to be adequate unless the district commander finds substantial doubt as to technical or procedural adequacy or omission of factors important to the Corps decision. In such cases, the district commander will prepare a draft and final supplement noting in the draft supplement why the EIS was considered inadequate. In all cases, except

§ 230.22

where the document is not recirculated as provided in 40 CFR 1506.3 (b) or (c), the adopted EIS with the supplement, if any, will be processed in accordance with this regulation. A district commander may also adopt another agency's EA/FONSI.

§ 230.22 Limitations on actions during the NEPA process.

See 40 CFR 1506.1.

§ 230.23 Predecision referrals.

See 40 CFR part 1504. If the district commander determines that a predecision referral is appropriate, the case will be sent through division to reach CECW-RE not later than 15 days after the final EIS was filed with EPA. Corps actions referred to CEQ by another Federal agency shall be transmitted to CECW-RE for further guidance. See paragraph 19, 33 CFR part 325, appendix B, for guidance on predecision referrals affecting regulatory permit actions.

§ 230.24 Agency decision points.

The timing and processing of NEPA documents in relation to major decision points are addressed in paragraphs 11 and 14 and appendix A for studies and projects and 33 CFR part 320 through 330 for regulatory actions.

§ 230.25 Environmental review and consultation requirements.

See 40 CFR 1502.25.

(a) For Federal projects, NEPA documents shall be prepared concurrently with and utilize data from analyses required by other environmental laws and executive orders. A listing of environmental laws and orders is contained in table 3.4.3 of Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies. Reviews and consultation requirements, analyses, and status of coordination associated with applicable laws, executive orders and memoranda will be summarized in the draft document. The results of the coordination completed or underway pursuant to these authorities will be summarized in the final document. Where the results of the ongoing studies are not expected to materially affect the decision on the proposed ac-

33 CFR Ch. II (7-1-12 Edition)

tion, the filing of the final EIS need not be delayed.

(b) *Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, 4 January 1979.* For general policy guidance, see FEDERAL REGISTER of April 12, 1979, 32 CFR part 197. Procedural requirements for Civil Works studies and projects are discussed below.

(1) The district commander through the division commander will notify CECW-PE, PN, PS or PW as appropriate, of an impending action which may impact on another country and for which environmental studies may be necessary to determine the extent and significance of the impact. The district commander will inform CECW-P whether entry into the country is necessary to study the base condition.

(2) CECW-P will notify the State Department, Office of Environment and Health (OES/ENH) of the district commander's concern, and whether a need exists at this point to notify officially the foreign nation of our intent to study potential impacts. Depending on expected extent and severity of impacts, or if entry is deemed necessary, the matter will be referred to the appropriate foreign desk for action.

(3) As soon as it becomes evident that the impacts of the proposed actions are considered significant, CECW-P will notify the State Department. The State Department will determine whether the foreign embassy needs to be notified, and will do so if deemed appropriate, requesting formal discussions on the matter. When the International Joint Commission (IJC) or the International Boundary and Water Commission, United States and Mexico (IBWC) is involved in a study, the State Department should be consulted to determine the foreign policy implications of any action and the proper course of action for formal consultations.

(4) Prior to public dissemination, press releases or reports dealing with impact assessments in foreign nations should be made available to the appropriate foreign desk at the State Department for clearance and coordination with the foreign embassy.